

## **I.C.R. 43. Presence of the Defendant.**

Idaho Criminal Rule 43. Presence of the Defendant.

(a) Presence required. The defendant shall be present at the arraignment, at the time of the plea, at every stage of the trial including the impaneling of the jury and the return of the verdict, and at the imposition of sentence, except as otherwise provided by this rule.

(b) Continued presence not required. The further progress of the trial to and including the return of the verdict, or the progress of any other proceeding, shall not be prevented and the defendant shall be considered to have waived defendant's right to be present whenever a defendant, initially present:

(1) Is voluntarily absent after the trial has commenced (whether or not the defendant has been informed by the court of the obligation to remain during the trial), or

(2) Who has previously been warned by the court, acts in a manner so disorderly, disruptive and disrespectful as to substantially impede or makes impossible orderly conduct of the trial or other proceeding, and the court may:

A. Bind and gag the defendant.

B. Cite the defendant for contempt.

C. Remove defendant from the courtroom until the defendant agrees to act properly.

D. Take other appropriate action, and continue to proceed with the trial.

(c) Presence not required. A defendant need not be present in the following situations unless otherwise ordered by the court:

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(1) A corporation may appear by counsel for all purposes.

(2) In prosecutions of misdemeanors the defendant may appear by counsel or the court, with the written consent of the defendant, may permit arraignment, plea, trial, and imposition of sentence without the defendant being physically present.

(3) At a conference or argument upon a question of law.

(4) At a reduction of sentence under Rule 35.

(Adopted December 27, 1979, effective July 1, 1980; amended February 9, 2012, effective July 1, 2012.)

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